

House File 396 - Introduced

HOUSE FILE _____
BY GASKILL

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act requiring a postelection audit after each general election
2 and including effective and applicability date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2125HH 83
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1 1 Section 1. Section 49.53, subsection 1, Code 2009, is
1 2 amended to read as follows:
1 3 1. The commissioner shall not less than four nor more than
1 4 twenty days before the day of each election, except those for
1 5 which different publication requirements are prescribed by
1 6 law, publish notice of the election. The notice shall contain
1 7 a facsimile of the portion of the ballot containing the first
1 8 rotation as prescribed by section 49.31, subsection 2, and
1 9 shall show the names of all candidates or nominees and the
1 10 office each seeks, and all public questions, to be voted upon
1 11 at the election. The sample ballot published as a part of the
1 12 notice may at the discretion of the commissioner be reduced in
1 13 size relative to the actual ballot but such reduction shall
1 14 not cause upper case letters appearing in candidates' names or
1 15 in summaries of public measures on the published sample ballot
1 16 to be less than ninety percent of the size of such upper case
1 17 letters appearing on the actual ballot. The notice shall also
1 18 state the date of the election, the hours the polls will be
1 19 open, the location of each polling place at which voting is to
1 20 occur in the election, the location of the polling places
1 21 designated as early ballot pick-up sites, and the names of the
1 22 precincts voting at each polling place, but the statement need
1 23 not set forth any fact which is apparent from the portion of
1 24 the ballot appearing as a part of the same notice. The notice
1 25 shall include the full text of all public measures to be voted
1 26 upon at the election. For the general election, the notice
1 27 shall also include notice of the time and place of the
1 28 postelection audit required in section 50.51.

1 29 Sec. 2. Section 50.12, Code 2009, is amended to read as
1 30 follows:
1 31 50.12 RETURN AND PRESERVATION OF BALLOTS.
1 32 Immediately after making the proclamation, and before
1 33 separating, the board members of each precinct in which votes
1 34 have been received by paper ballot shall enclose in an
1 35 envelope or other container all ballots which have been
2 1 counted by them, except those endorsed "Rejected as double",
2 2 "Defective", or "Objected to", and securely seal the envelope.
2 3 The signatures of all board members of the precinct shall be
2 4 placed across the seal or the opening of the container so that
2 5 it cannot be opened without breaking the seal. The precinct
2 6 election officials shall return all the ballots to the
2 7 commissioner, who shall carefully preserve them for six
2 8 months. Ballots from elections for federal offices shall be
2 9 preserved for twenty-two months. The sealed packages
2 10 containing voted ballots shall be opened only for an official
2 11 recount authorized by section 50.48, 50.49, or 50.50, for an
2 12 election contest held pursuant to chapters 57 through 62, for
2 13 a postelection audit required by section 50.51, or to destroy
2 14 the ballots pursuant to section 50.19.

2 15 Sec. 3. Section 50.48, subsection 1, paragraph a,
2 16 unnumbered paragraph 1, Code 2009, is amended to read as
2 17 follows:
2 18 The county board of canvassers shall order a recount of the
2 19 votes cast for a particular office or nomination in one or
2 20 more specified election precincts in that county if a written

2 21 request therefor for a recount is made not later than 5:00
2 22 p.m. on the third day following the county board's canvass of
2 23 the election in question. However, if a postelection audit is
2 24 expanded pursuant to section 50.51, subsection 6, paragraph
2 25 "c", the request for a recount shall be made not later than
2 26 5:00 p.m. on the first business day following completion of
2 27 the audit. The request shall be filed with the commissioner
2 28 of that county, or with the commissioner responsible for
2 29 conducting the election if section 47.2, subsection 2, is
2 30 applicable, and shall be signed by either of the following:
2 31 Sec. 4. NEW SECTION. 50.51 POSTELECTION AUDIT.
2 32 1. a. After each general election, a postelection audit
2 33 of the tabulation of votes shall be conducted as provided in
2 34 this section.
2 35 b. A postelection audit conducted pursuant to this section
3 1 shall not affect a person's right to request a recount under
3 2 section 50.48 or the right of electors to request a recount of
3 3 a public measure under section 50.49 or the commissioner's
3 4 right to request an administrative recount under section
3 5 50.50. If a request for a recount is filed under section
3 6 50.48, a postelection audit of the office for which the
3 7 recount was requested shall not be conducted or shall be
3 8 terminated, as the case may be.
3 9 2. The commissioner shall include notice of the time and
3 10 place of the postelection audit in the notice of the election
3 11 published pursuant to section 49.53. The commissioner shall
3 12 also notify the county chairperson of each political party
3 13 referred to in section 49.13, subsection 2, of the time and
3 14 place of the postelection audit.
3 15 3. a. The postelection audit shall be conducted for the
3 16 offices of president of the United States and governor and an
3 17 additional office listed in paragraph "b" or "c", and the
3 18 offices listed in paragraph "d", if applicable.
3 19 b. When the office of president of the United States
3 20 appears on the ballot, the votes cast for one of the following
3 21 contested offices shall be audited:
3 22 (1) United States senator.
3 23 (2) United States representative.
3 24 (3) Senator in the general assembly.
3 25 (4) Representative in the general assembly.
3 26 c. When the office of governor appears on the ballot, the
3 27 votes cast for one of the following contested offices shall be
3 28 audited:
3 29 (1) United States senator.
3 30 (2) United States representative.
3 31 (3) Senator in the general assembly.
3 32 (4) Representative in the general assembly.
3 33 (5) Secretary of state.
3 34 (6) Auditor of state.
3 35 (7) Treasurer of state.
4 1 (8) Attorney general.
4 2 (9) Secretary of agriculture.
4 3 d. The additional office to be audited under paragraph "b"
4 4 or "c" shall be chosen by lot at the same time and in the same
4 5 manner that precincts to be audited are chosen pursuant to
4 6 subsection 4. If in the election to be audited, none of the
4 7 offices listed in paragraph "b" were contested races, the
4 8 offices of county supervisor, county auditor, and county
4 9 sheriff shall be entered in the lot, and if none of the
4 10 offices listed in paragraph "c" were contested races, the
4 11 offices of county supervisor, county attorney, county
4 12 treasurer, and county recorder shall be entered in the lot.
4 13 e. In addition to the offices listed in this subsection as
4 14 being subject to the postelection audit, the commissioner may
4 15 choose to include any other office or public measure that
4 16 appeared on the ballot in those precincts chosen for the
4 17 postelection audit.
4 18 4. a. The precincts for which a postelection audit shall
4 19 be conducted shall be chosen by lot by the chairperson of the
4 20 county board of canvassers on the day the canvass of the
4 21 general election is conducted. After the precincts have been
4 22 chosen, the additional office to be audited, as provided in
4 23 subsection 3, shall be chosen by lot by the chairperson. The
4 24 selection proceedings shall be open to the public and to
4 25 observers from the political parties.
4 26 b. The number of precincts chosen shall be as follows:
4 27 (1) In counties with fifty thousand or fewer registered
4 28 voters, two precincts.
4 29 (2) In counties with more than fifty thousand registered
4 30 voters up to and including one hundred thousand registered
4 31 voters, three precincts.

4 32 (3) In counties with more than one hundred thousand
4 33 registered voters up to and including two hundred thousand
4 34 registered voters, four precincts.
4 35 (4) In counties with more than two hundred thousand
5 1 registered voters, six precincts.
5 2 c. The absentee and special voters precinct established in
5 3 section 53.20 shall be considered a precinct for purposes of a
5 4 postelection audit. If the absentee and special voters
5 5 precinct is chosen by lot to be audited, a number of ballots
5 6 equal to five percent of the absentee ballots cast in the
5 7 election shall be audited.
5 8 d. For purposes of paragraph "b", "registered voters"
5 9 means those persons registered to vote as of the close of
5 10 registration for the general election pursuant to section
5 11 48A.9, subsection 1.
5 12 e. The county board of canvassers shall not use a
5 13 computerized process of randomization as the method of
5 14 selecting by lot the precincts and offices to be audited.
5 15 5. The commissioner shall appoint the members of the
5 16 postelection audit board. The postelection audit board shall
5 17 be comprised of members affiliated with the political parties
5 18 as provided for regular elections boards in section 49.12.
5 19 6. a. When all members of the postelection audit board
5 20 have been selected, the board shall undertake and complete the
5 21 required audit no later than two business days following the
5 22 canvass. The ballots in each precinct chosen shall be counted
5 23 by hand. The commissioner or the commissioner's designee
5 24 shall supervise the handling of ballots, tally lists, and the
5 25 printed reports from the automatic tabulating equipment to
5 26 ensure that the ballots, tally lists, and printed reports are
5 27 protected from alteration or damage. The board shall open
5 28 only the sealed ballot containers from the precincts chosen to
5 29 be audited. The board shall recount only the ballots which
5 30 were voted and counted for the office in question, including
5 31 any disputed ballots returned as required in section 50.5.
5 32 b. Immediately following the conclusion of the audit, the
5 33 postelection audit board shall make and file with the
5 34 commissioner a written report of its findings, which report
5 35 shall be signed by the chairperson of the postelection audit
6 1 board and one other member of the board who is affiliated with
6 2 a political party different than that of the chairperson.
6 3 c. (1) If the postelection audit of an office reveals a
6 4 difference greater than one-half of one percent, but no fewer
6 5 than two votes, from the results on the printed report from
6 6 the automatic tabulating equipment, the postelection audit
6 7 board shall, within two days, conduct an audit of the offices
6 8 for which such difference was found in at least two additional
6 9 precincts chosen in the same manner the original precincts
6 10 were chosen and shall immediately report the results to the
6 11 commissioner.
6 12 (2) If the second audit also indicates a difference in the
6 13 vote totals that is greater than one-half of one percent, but
6 14 no fewer than two votes, from the results on the printed
6 15 report from the automatic tabulating equipment, the
6 16 commissioner shall immediately notify the state commissioner
6 17 of elections.
6 18 (3) The state commissioner of elections may direct the
6 19 commissioner, or any other commissioner of a county where the
6 20 office appeared on the ballot, to conduct an additional audit
6 21 of the office in a number of precincts determined by the state
6 22 commissioner.

6 23 7. All reports pertaining to a postelection audit shall be
6 24 filed with the state commissioner of elections, and the state
6 25 commissioner shall make public the results of the postelection
6 26 audit in each county as those reports are received.
6 27 8. The state commissioner of elections shall adopt rules
6 28 to implement this section including but not limited to rules
6 29 establishing criteria for the state commissioner to utilize
6 30 when evaluating the results of postelection audits.
6 31 Sec. 5. EFFECTIVE AND APPLICABILITY DATES. This Act takes
6 32 effect July 1, 2010, and applies to the general election held
6 33 in 2010 and all subsequent general elections.
6 34 EXPLANATION
6 35 This bill requires a postelection audit after each general
7 1 election. The postelection audit is a hand count of the
7 2 ballots cast in certain contested, partisan offices in
7 3 selected precincts. The precincts and offices to be audited
7 4 are to be selected publicly by lot by the county board of
7 5 canvassers, except that the office of President of the United
7 6 States and governor are required to be audited after each
7 7 general election.

7 8 The bill provides that the number of precincts to be
7 9 audited is as follows:

7 10 (1) In counties with 50,000 or fewer registered voters,
7 11 two precincts.

7 12 (2) In counties with more than 50,000 registered voters up
7 13 to and including 100,000 registered voters, three precincts.

7 14 (3) In counties with more than 100,000 registered voters
7 15 up to and including 200,000 registered voters, four precincts.

7 16 (4) In counties with more than 200,000 registered voters,
7 17 six precincts.

7 18 The bill provides that if the postelection audit reveals a
7 19 difference greater than one-half of 1 percent from the results
7 20 on the printed report from the automatic tabulating equipment,
7 21 the postelection audit board shall, within two days, conduct
7 22 an audit of the offices for which such difference was found in
7 23 at least two additional precincts. If the second audit also
7 24 indicates a difference in the vote totals that is greater than
7 25 one-half of 1 percent, but no fewer than two votes, from the
7 26 results on the printed report from the automatic tabulating
7 27 equipment, the commissioner shall immediately notify the state
7 28 commissioner of elections. The state commissioner may direct
7 29 the commissioner, or any other commissioner of a county where
7 30 the office appeared on the ballot, to conduct an additional
7 31 audit of the office in a number of precincts determined by the
7 32 state commissioner.

7 33 The bill provides that if a recount of an office is
7 34 requested, the postelection audit of that office shall not be
7 35 conducted or shall be terminated, as the case may be.

8 1 The bill requires the state commissioner of elections to
8 2 make public the results of postelection audits.

8 3 The bill takes effect July 1, 2010, and applies to the
8 4 general election held in 2010 and all subsequent general
8 5 elections.

8 6 LSB 2125HH 83

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